

REMARKS/ARGUMENTS

Claims 1-20 are pending in the application.

Claims 1-6, 8-10 and 16-17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Loffler (collectively U.S. Published Application No. 2001/0005737 and U.S. Patent No. 6,489,395). Claims 7, 11-15 and 18-20 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of Loffler, either alone or in combination with Röckl et al. (U.S. Patent No. 5,690,919).

Loffler is directed to specific oligoesters for use in emulsions. These oligoesters were previously known as soil release polymers in detergents. The oligoester is prepared using the polycondensation reaction provided in claim 1 of Loffler. Examples 1-7 in Loffler include three polyester oligomers that are presumably prepared according to the claimed method. Although Loffler mentions that emulsions comprising the specific oligoester may be oil-in-water or water-in-oil emulsions, Loffler does not disclose the use of Aristoflex AVC in water-in-oil emulsions. In fact, there is no mention of Aristoflex AVC except in Examples 1-7 where it is used exclusively as an ingredient in oil-in-water emulsions. Therefore, even if Aristoflex AVC were to be considered to be an ammonium acryloyldimethyltaurate/vinylpyrrolidone copolymer as recited in the present claims, Loffler does not disclose a water-in-oil emulsion comprising up to 5% by weight of one or more ammonium acryloyldimethyltaurate/vinylpyrrolidone copolymers as recited in the claims. Furthermore, Loffler does not disclose an eye shadow including such a water-in-oil emulsion or a method of treating skin or hair comprising applying to the skin or hair such a water-in-oil emulsion, as is claimed in claims 16-20. Accordingly, the present claims are not anticipated by Loffler under 35 U.S.C. § 102(e).

The present claims are also not obvious in view of Loffler, either alone or in combination with Röckl. As stated in the previous paragraph, Loffler does not disclose the use of the copolymer recited in the present claims in a water-in-oil emulsion. Furthermore, Loffler provides no teaching or suggestion for using the copolymer recited in the present claims in a water-in-oil emulsion. Röckl also fails to provide this teaching or suggestion. Accordingly, the present claims are also not obvious under 35 U.S.C. § 103(a) in view of Loffler, either alone or in combination with Röckl.

Appl. No.: 10/602,392
Amendment dated 08/11/05
Reply to Office Action of April 11, 2005

Applicants respectfully submit that all the claims are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested in due course. If any minor informalities need to be addressed, the Examiner is directed to contact the undersigned attorney by telephone to facilitate prosecution of this case.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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"Express Mail" mailing label number EV 435316545 US
Date of Deposit August 11, 2005

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